UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMPERSAND PUBLISHING, LLP d/b/a SANTA BARBARA <i>NEWS-PRESS</i> , Employer,)))		
and)	Case:	31-CA-29253
GRAPHIC COMMUNICATIONS CONFERENCE, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, Union.))))		

MOTION TO STRIKE ANSWERING BRIEF OF COUNSEL FOR THE GENERAL COUNSEL TO RESPONDENT'S EXCEPTIONS TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE

COMES NOW, the Respondent, Ampersand Publishing, LLC d/b/a Santa Barbara News-Press ("the News-Press"), pursuant to Section 102.47 of the National Labor Relations Board's ("NLRB" or "Board") Rules and Regulations, Series 8, as amended, with this Motion to Strike Answering Brief of Counsel for the General Counsel to Respondent's Exceptions to the Decision of the Administrative Law Judge.

The reason for this Motion is the General Counsel's failure to comply with Section 102.114(i) of the Board's Rules and Regulations. Section 102.114(i) states:

(i) The Agency's Web site (http://www.nlrb.gov) contains certain forms that parties or other persons are permitted to file with the Agency electronically. Parties or other persons choosing to utilize those forms to file documents electronically are permitted to do so by following the instructions described on the Web site, notwithstanding any contrary provisions elsewhere in these rules. *In the event the document being filed electronically is required to be served on another party to a proceeding, the other party shall be served by electronic mail (e-mail), if possible.* If the other party does not have the ability to receive electronic service, the other party shall be notified by telephone of the substance of the

transmitted document and a copy of the document shall be served by personal service no later than the next day, by overnight delivery service, or, with the permission of the party receiving the document, by facsimile transmission.

29 C.F.R. § 102.114(i)(emphasis added).

In its Answering Brief, the General Counsel certified that it electronically filed the Answering Brief with the Executive Secretary on March 31, 2010, but then served the Respondent via Regular Mail, which was received by the *News-Press* on April 5, 2010. The General Counsel did not email the *News-Press* the Answering Brief contemporaneous with electronic filing. The General Counsel did not send the Answering Brief by personal service, overnight delivery, or by facsimile with permission of the *News-Press*. The General Counsel's failure falls short of both the letter and spirit of Section 102.114(i) of the Board's Rules and Regulations.

The General Counsel's failure to properly serve the *News-Press* constitutes grounds for rejecting the document, per Section 102.114(c)(1) of the Board's Rules and Regulations. *See* 29 C.F.R. § 114(c)(1).

This failure to properly serve the *News-Press* is all the more inexplicable as the *News-Press* electronically filed its Exceptions and Brief in Support of Exceptions and emailed the documents to the General Counsel and the Charging Party. In addition, Ms. Silverman, the Counsel for the General Counsel has regularly emailed counsel to the *News-Press*.

CONCLUSION

WHEREFORE, for any and all of the foregoing reasons, the *News-Press* respectfully requests that the General Counsel's Answering Brief in NLRB Case No. 31-CA-29253 be rejected.

Dated: April 8, 2010

Santa Barbara, CA and Nashville, TN

Respectfully Submitted,

CAPPELLO & NOËL LLP

/s/ A. Barry Cappello

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion to Strike Answering Brief of Counsel for the General Counsel to Respondent's Exceptions to the Decision of the Administrative Law Judge was filed electronically and served via email on this 8th day of April, 2010 on the following:

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